

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MOHAMED SALAT HAJI,

Defendant.

CASE NO. 1:19-CR-25-02

HON. ROBERT J. JONKER

NOTICE

The parties agree that the sentencing guideline score (after a 3-point credit for acceptance of responsibility) is offense level 35, criminal history category VI. That corresponds to 292-365 months on the chart, but the parties also agree the controlling guideline in this case is 240 months, the statutory maximum for the count of conviction.

The parties significantly disagree, however, about the actual sentence the Court should impose after considerations of departure and variance. The government urges a final sentence of 240 months. The defense urges a custodial sentence of no greater than 78 months considering departure and variance factors.

As always, the Court will weigh and consider all relevant Section 3553 factors. In addition, the Court anticipates considering whether a downward departure on criminal history category is warranted under USSG 4A1.3. *See, e.g., United States v. Alhaggagi*, 372 F.Supp.3d 1005, 1012-1017 (N.D. Cal. 2019) (Breyer, J.), *vacated on other grounds*, 978 F.3d 693 (9th Cir. 2020); *United States v. Muhtorov*, 329 F. Supp. 3d 1289, 1300-1301 (D. Colo. 2018). *Cf. United States v. Mason*, 410 Fed. Appx. 881, 884-85 (6th Cir. 2010) (noting trial judge's conclusion that the terrorism

enhancement's mandated category VI "did not cause an overstatement of [defendant's] criminal history because [defendant] had admitted in her plea agreement to participating in a long list of uncharged crimes").

The Court also notes that the parties may find it useful to review a summary of other sentences imposed across the country in material support cases that Senior Judge Kane included in a lengthy sentencing opinion. *See United States v. Jumaev*, 2018 WL 3490886, Case Appendix following *22 (D. Colo. July 18, 2018). Direct case comparisons are almost always fraught with difficulty, but both sides have addressed potential sentencing disparity and the Case Appendix in *Jumaev* at least provides some concrete examples.

Dated: September 20, 2021

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE